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ORDER FOR RELIEF

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KEENAN, J. D., CLERK
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
SANTA ROSA, CA.

6 UNITED STATES BANKRUPTCY COURT
7
8 NORTHERN DISTRICT OF CALIFORNIA

8	In re)	Case No. 95-10911 aj
9)	
10	GERALD ARMSTRONG,)	Chapter 7
11	Debtor)	Adv. No. 95-1164
12)	Trial Date: 2/13/96
13	CHURCH OF SCIENTOLOGY)	
14	INTERNATIONAL, a California non-)	
15	profit religious corporation,)	
16	Plaintiff,)	
17	v.)	
18	GERALD ARMSTRONG,)	
19	Defendant.)	

20 EX PARTE APPLICATION FOR AN ORDER
21 SHORTENING TIME FOR HEARING ON MOTION FOR ORDER
22 CONCERNING TRIAL TESTIMONY AND CONTINUING TRIAL

23 I. INTRODUCTION

24 Trial is set for February 13, 1996. Plaintiff Scientology
25 organization by its own ex parte application asks this Court to
26 allow its motion to amend its complaint and continue the trial
27 date to be heard on shortened notice on February 2. Defendant
28 asks that his accompanying motion for an order concerning trial
testimony and continuing the trial be heard at the same time.

On October 10, 1995 this Court issued an order that "all

1 direct testimony at the trial shall be in the form of
2 declarations." Key witnesses for defendant will not provide him
3 with declarations because of fear of retaliation by Scientology.
4 At least some of these witnesses have said they will testify if
5 subpoenaed. Defendant seeks to move the Court to change its
6 order and allow direct oral testimony at trial so that defendant
7 may defend himself.

8 What has been called a "final judgment" has apparently been
9 granted in the state case (Exhibit A to the declaration of Andrew
10 Wilson in support of plaintiff's motion). Defendant will appeal
11 such "final judgment." It is altogether likely, since the "final
12 judgment" is illegal and unenforceable, that it will be
13 invalidated on appeal. It would therefore be premature and could
14 lead to an irreversible miscarriage of justice to try
15 Scientology's adversary complaint until defendant has the
16 opportunity to obtain appellate review of this "final judgment."

17 ARGUMENT

18 Defendant has contacted a number of individuals who possess
19 testimony essential to the defenses stated in his answer to
20 Scientology's complaint herein. Four key witnesses have stated
21 that they are unwilling to provide a declaration for his use at
22 trial in this case because they fear retaliation by Scientology:
23 attorneys Michael J. Flynn, attorney Joseph A. Yanny, Michael
24 Douglas and Nancy Rodes. Another attorney, Graham E. Berry, said
25 he was unable to provide a declaration because others in his law
26 firm fear Scientology's retaliation. (Declaration of Gerald
27 Armstrong in support of ex parte application for order shortening
28 time and motion for order concerning trial testimony and
continuing trial ("GA Dec" 2:9-17)

1 Michael J. Flynn was defendant's attorney throughout the
2 litigation entitled Scientology v. Armstrong, Los Angeles
3 Superior Court Case No. C 420153, and arranged the "settlement
4 agreement" with Scientology which it seeks to enforce in the
5 state action and which underlies this adversary proceeding.
6 Defendant has spoken to Mr. Flynn many times, advised him of this
7 Court's order that trial testimony be by declaration, many times
8 asked him for a declaration, and appealed to his former sense of
9 justice, courage and truth. Mr. Flynn says that he signed an
10 "agreement" with Scientology to not represent or assist
11 defendant, and that even though he acknowledges that such an
12 "agreement" is illegal, Scientology will ruin his life again if
13 he provides defendant with a declaration. He says defendant must
14 subpoena him to have his testimony for trial. He says that the
15 years of threats and attacks by Scientology caused him deep
16 spiritual suffering which profoundly altered his psyche.

17 Mr. Flynn will testify that he was subjected to
18 Scientology's "fair game" doctrine and attacks from 1980 through
19 1986; that Scientology's "settlement agreements," which he
20 presented to his approximately 20 clients to sign, were in
21 exchange for Scientology's ending its "fair game" against him and
22 promising to end fair game against everyone else; that he advised
23 defendant that the conditions in the "settlement agreement"
24 authorizing liquidated damages or prohibiting First Amendment
25 activities were "not worth the paper they're printed on;" that he
26 advised defendant that he could not contract away his
27 Constitutional rights; that he advised defendant that what
28 Scientology was paying defendant for in the settlement was the
dismissal of his lawsuit and other claims against it; and that

1 attacks by Scientology caused Mr. Flynn deep spiritual suffering
2 which profoundly altered his psyche. For a glimpse at the level
3 of threat Scientology was in Mr. Flynn's life, see, e.g., US v.
4 Kattar, 840 F.2d 118 where Scientology sought and bought false
5 statements to implicate Mr. Flynn in the forgery of a
6 \$2,000,000.00 check. Defendant was aware of many lawsuits and
7 bar complaints brought by Scientology or its stooges against Mr.
8 Flynn and his associates, and he knew from Mr. Flynn, having
9 worked for over a year in his Boston office and supported him in
10 the worldwide battle against Scientology's fair game litigation
11 machine from 1981 through 1986, that Mr. Flynn attributed an
12 attempt on his life, terrible disruption to his marriage, threats
13 to his law practice, unconscionable black PR, and relentless
14 robotic attack to the organization under its crazy, dangerous
15 leaders. Black PR, or black propaganda, is L. Ron Hubbard's term
16 for covert character assassination. (GA Dec 2:18-:7

17 Scientology claims that defendant's "breaches" of its
18 "settlement agreement" are willful and malicious. Mr. Flynn's
19 advice to defendant that the conditions he was "violating" were
20 unenforceable, is extremely relevant, therefore, to his defense.

21 "Fair game" is Scientology's philosophy and practice of
22 opportunistic hatred. "Fair Game doctrine of the Church []
23 permits a suppressive person to be "tricked, sued or lied to or
24 destroyed...[or] deprived of property or injured by any means by
25 any Scientologist..." Scientology v. Armstrong, (1991) 232
26 Cal.App.3d 1060, 283 Cal.Rptr.917 at 920.

27 Joseph A. Yanny is an attorney who at one time in the 1980's
28 represented Scientology and then became its fair game target. In
1991, because Scientology tricked Richard and Vicki Aznaran into

1 firing Ford Greene, their attorney in Aznaran v. Scientology, US
2 District Court for the Central District of California Case No.
3 CV-88-1786-JMI(Ex), and then loaded up the record with a number
4 of summary judgment or other dispositive motions, Mr. Yanny
5 briefly came into the case to protect the Aznarans. While he was
6 the attorney of record in Aznaran, Mr. Yanny called defendant and
7 asked for his help. Defendant executed a declaration to be filed
8 in the Aznaran case at Mr. Yanny's request concerning the effect
9 of the group "settlement agreements" on the ability of
10 Scientology's victims to find legal representation.

11 On January 9, 1996 defendant wrote Mr. Yanny requesting a
12 declaration to be used in his defense in this case. (Exhibit A to
13 GA Dec). When defendant later spoke with Mr. Yanny he advised
14 defendant that because of the threat of attack by Scientology he
15 could not provide a declaration, and that defendant would have to
16 subpoena him to testify at trial. Scientology had sued Mr. Yanny
17 twice, alleging in the second lawsuit that he was representing
18 defendant in litigation against the organization. Mr. Yanny had
19 never represented defendant, and both cases Scientology filed
20 against him were dismissed by the presiding Court. (GA Dec 4:8-
21 5:12)

22 Justice Staniforth stated in the Second Appellate District's
23 opinion of June 29, 1994 affirming the dismissal of one of
24 Scientology's lawsuits "Such evidence leads to the conclusion
25 that this proceeding was a device for destroying Yanny and any
26 lawyers who chose to work with him. This appeal is the "Fair
27 Game" of Scientology infamy at work." (Ex. B to GA Dec.)
28 Scientology's lawsuit against Mr. Yanny, in which it falsely
claimed that he was representing defendant, is mentioned at page

1 4, n.3. Defendant does not have a copy of the opinion affirming
2 the trial court's dismissal of that case.

3 Michael Douglas is a friend of defendant and a former
4 Scientologist. When defendant gave away his worldly wealth in
5 1990 he forgave a debt of approximately \$80,000 that Mr. Douglas
6 owed him. In December, 1986 Mr. Douglas signed a "settlement
7 agreement" similar to the one Scientology is attempting to
8 enforce against defendant. Mr. Douglas is afraid of Scientology
9 and states that he is unwilling to execute a declaration for
10 defendant and that defendant would have to subpoena him to
11 testify. He will testify that defendant's forgiving his debt was
12 not to render defendant judgment proof, but because defendant was
13 motivated by a Higher Cause and that he is not "holding" any
14 money for defendant. Mr. Douglas will testify about his
15 knowledge of fair game and his fear of being its target. (GA Dec
16 5:13-24)

17 Nancy Rodes is a friend of defendant and former
18 Scientologist, who also signed an "agreement" in December, 1986.
19 She is afraid of Scientology and states that the organization
20 will sue her as it did defendant if she provides him with a
21 declaration for his defense in this case. She will testify if
22 defendant subpoenas her. She will testify that Mr. Flynn advised
23 her in order to get her to sign the "agreement" that the
24 liquidated damages provision and conditions limiting her speech
25 were "unenforceable." (GA Dec 5:25-6:3)

26 Martin Samuels is also a friend of defendant and former
27 Scientologist who signed a December, 1986 "agreement" and was
28 also told by Flynn before signing that "it's not worth the paper
it's printed on." Mr. Samuels states that he is afraid of

1 attacks by Scientology and is unwilling to execute a declaration
2 for defendant's defense. He was a long time target of "fair
3 game" and knowledgeable concerning organization operations and
4 unethical litigation tactics. (GA Dec 6:4-11)

5 Graham E. Berry is an attorney in Los Angeles who has
6 litigated successfully against Scientology and is one of its
7 present fair game targets. The organization's attacks on Mr.
8 Berry are representative of what it does to this day to attorneys
9 who dare to stand up to its litigation machine. It is
10 defendant's understanding that Scientology has been successful
11 through threat in pressuring one or more of the senior attorneys
12 in Mr. Berry's firm to prevent him from participating in
13 Scientology-related litigations. He says that he is unable to
14 provide a declaration for defendant, but will testify if
15 subpoenaed. (GA Dec 6:12-21)

16 In his Motion for Reconsideration of Grant of Summary
17 Adjudication as to Twentieth Cause of Action for Permanent
18 Injunction filed November 16, 1995 in the state case, defendant
19 made the argument that "the instant injunction precludes
20 Armstrong from representing himself in [this adversary
21 proceeding] because he cannot talk to people about Scientology in
22 order to obtain declarations in his own defense. Such is a
23 denial of Armstrong's First Amendment right to redress, Fifth and
24 Fourteenth Amendment rights to due process and fair trial, and
25 his Sixth Amendment rights to counsel and to confrontation."
26 (Ex. C to GA Dec at 13:4-7).

27 In his denial of the motion for reconsideration, the State
28 Court Judge Gary W. Thomas stated:

"Even if the Bankruptcy Court had not directed that

1 testimony be via declaration, defendant would have had
2 the same purported problem in obtaining direct
3 testimony (i.e., he would have been unable to talk to
4 people about Scientology in order to obtain direct
5 testimony in his own defense. Even if the Court
6 considers this argument, it has no merit in that
7 defendant can ask people to submit declarations without
8 discussing his views and beliefs about plaintiff." (Ex.
9 D to GA Dec)

10 Judge Thomas does not state what defendant's views and beliefs
11 about "Scientology" are, and the "permanent injunction" states
12 nothing about his views and beliefs. It is, however, clear that
13 Scientology will construe whatever he says to prospective
14 witnesses to be his views and beliefs, and will use his contact
15 of witnesses to attack him. Scientology has tried at least six
16 times to have defendant found in contempt of court for his
17 actions as innocent as answering the telephone at his job when a
18 former Scientologist called, or on Scientology's own manufactured
19 charges. It is altogether likely that Judge Thomas cannot
20 legally prohibit defendant from defending himself in this case,
21 nor prevent him from talking to witnesses to try to get them to
22 testify in his defense. Indeed, his answer in this case contains
23 some of his views and beliefs about "Scientology," and he has
24 sent copies to various witnesses, as shown in his letter to Mr.
25 Yanny (Ex. A to GA Dec.).

26 As Scientology says in its papers, Judge Thomas for some
27 reason delayed signing the "final judgment" in the state case.
28 Scientology has also advised defendant that it expects to receive
a signed "final judgment" momentarily. When defendant receives

1 such "final judgment" he will appeal it. Defendant has spoken to
2 many lawyers concerning Scientology's attacks, the orders it has
3 been able to obtain from Judge Thomas, and the appeal from such
4 orders. Defendant believes he will be able to obtain legal help
5 in his appeal, believes it will be successful, and believes that
6 the "settlement agreement" will be adjudged to have been obtained
7 by duress and fraud and to be illegal and unenforceable.

8 When defendant filed his bankruptcy petition in April, 1995
9 he did so on the advise of his lawyer who said that it was the
10 only way to prevent Scientology from taking what little he owned,
11 including his bicycle and clothing, as a result of the claimed
12 award of \$100,000.00 in Judge Thomas's grant of summary
13 adjudication of two causes of action on January 27, 1995 (see
14 order appended to the declaration of Andrew Wilson.) Defendant's
15 lawyer also said that the January 27 ruling was unappealable
16 because it was not a final judgment. The "final judgment"
17 granted by Judge Thomas is appealable.

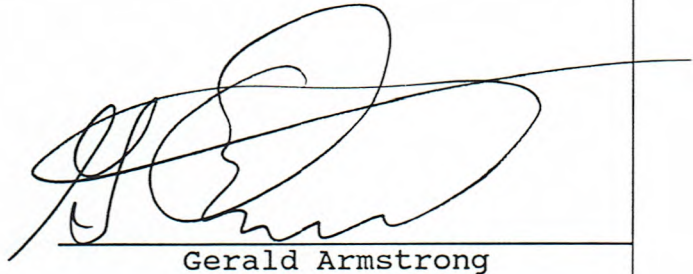
18 If defendant is successful on appeal, the present money
19 judgment and injunction will be wiped out. It would be premature
20 therefore for the trial to proceed at this time in this case. If
21 the trial did proceed and defendant's "debt" to Scientology is
22 ruled non-dischargeable, Scientology would be able to subject
23 defendant to its fair game collection tactics before he has been
24 able to appeal. It is not inconceivable that Scientology would
25 prevail at trial because of the unfair advantage it enjoys,
26 having intimidated defendant's key witnesses as shown above. If
27 the Court of Appeal later reversed the "final judgment" the
28 damage to defendant would already have been done and could not be
corrected.

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CONCLUSION

Defendant requests that this Court grant his ex parte application and allow his motion for an order concerning trial testimony and continuing the trial to be heard on shortened notice on February 2, 1996.

Dated: January 26, 1996



Gerald Armstrong